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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,306

Applicant(s)

LAURENT ET AL.

Examiner

Ed Baird

Art Unit

3695

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-36 is/are rejected.
7) ☒ Claim(s) 31 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 20 and 29 May 2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **06 April 2009** has been entered.

Status of Claims

2. Applicant has amended claims 1 – 3, 13, 16 – 18, 28, and 31 – 33. No claims have been added or canceled. Thus, **claims 1 – 38** remain pending and are presented for examination.

Response to Arguments

3. Applicant's remarks/ arguments filed **06 April 2009** have been fully considered.

4. Examiner acknowledges amendments to claims 13 and 28 to overcome claim objections and, in turn, withdraws objections.

5. Applicant's arguments filed with respect to claims **1 – 38** regarding the 35 U.S.C. § 103(a) rejections have been fully considered but are moot in view of the new ground(s) of rejection.

Drawings

6. The drawings are objected to because Figures 1-E and 4A and 4B do not have labeled axes.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

7. The disclosure is objected to because of the following informalities: Paragraph [0092] of the instant specification refers to the "aggregated forecast 406, chart 408 of FIG. 4B". No. 406 is not shown in Figure 4B. Appropriate correction is required.

Claim Objections

8. **Claim 31** is objected to because the preamble of the claim claims "an article of manufacture comprising a program storage medium having computer readable code" . . . the article of manufacture comprising:". It is not clear whether the Applicant is claiming an *article of manufacture* or a *computer readable code*.

For purposes of examination, the preamble will be interpreted to read:

"An article of manufacture for facilitating freight shipment between a first geographic location and a second geographic location, comprising:"

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Regarding **claim 1**, the system discloses "computer hardware" but does not elements that contain a physical structure. Aside from the term "computer hardware", the remainder of the claim consists of code.

In order to overcome this rejection, a substantive physical structure must be claimed.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 1, 7 – 11, 16, 22 – 26, 31, 37, and 38 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (US Pub. No. 2002/0069155) in view of **Bjerre et al** (US Pub. No. 2002/0123911) in further view of **Bergkvist** ("The value of time and forecasting of flows in freight transportation", presented at the 41st ERSa congress in Zagreb 2001).

14. Regarding **claim 1, 16, and 31**: **Nafeh** teaches a system for facilitating freight shipment between locations comprising:

- computer hardware; and
- computer software readable by said computer hardware, said computer software including:
- code for displaying a browser window, said browser window including: at least a first data section configured to display derivative contract data pertaining to shipment capacity offered by carriers between said first geographic location and said second geographic location, said derivative contract data being associated with at least one of an air mode, a sea mode, a train mode, and a truck mode;

Nafeh discloses an invention which includes methods and apparatus, to innovate trading of futures securities. This invention includes futures contracts tailored to specific clienteles; the notion of tickets and coupons as tradable futures contracts; the notion of redeemable bundles; and notion of realization of the futures market on the Internet; the apparatus of an Internet-based trading interface and engine; the notion of cookie-cutter futures electronic Internet-based futures markets for each security; the feature of maximal reliance on the Internet; and the business concept of "profitability without the need for high trading volume" [Abstract].

Nafeh discloses a computer-network based futures trading system, or platform, which is electronically accessible by prospective traders, for enabling transactions related to futures contracts and futures contract bundles [0035]. **Nafeh** further discloses his computer-network based system as having an interactive interface that may be configured to enable anyone who accesses the platform to apply for a new account and to **view data and news related to activity within markets** within the platform [0036]. Examiner interprets viewing data and news as Applicant's **displaying derivative contract data** and **displaying forecast data**. Examiner

interprets futures trading system to include Applicant's **derivative contract data** in that futures are a type of derivative. Examiner notes that forecast data being provided by shippers is a statement of intended use in as much as forecast data is provided by anyone involved in a particular industry, i.e. shipping and transportation.

Nafeh does not specially disclose trading futures options in relation to transportation. However, **Bjerre** discloses an on-line system which allows a shipper to track and trace containers across multiple carriers [Abstract]. He discloses a method and system that enables domestic and international transportation users to handle shipping transactions through a single common system through a neutral transportation portal [0009]. He further discloses enabling a user to submit booking requests to multiple carriers and/or track and trace the goods using a single common carrier system and interface [0038]. Examiner notes that **Bjerre** defines a carrier as any entity that transports goods from an origin to a destination including trucks, trains, planes, ships, and/or the like [0028].

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include *derivative contracts as applied to transportation* as taught by **Bjerre** because it allows individuals involved in the shipping industry to submit booking requests to multiple carriers and/or track and trace the goods using a single common carrier system and interface [**Bjerre** 0038].

Neither **Nafeh** nor **Bjerre** explicitly discloses:

- said browser window further including at least a second data section configured to be viewed simultaneously with said first data section, said second data section displaying forecast data pertaining to demand forecasts between said first geographic location and said second geographic location, said forecast data being provided by shippers.

- code for receiving shipper assessment of accuracy of said forecast data from said shippers,
- code for sorting said forecast data by geography,
- code for sorting actual data by geography,
- code for comparing said forecast data with said actual data to calculate a forecast quality index. and
- code for publishing said shipper assessment and said forecast quality index.

However, **Bergkvist** teaches the valuation of quality aspects for freight transports such as faster and more reliable transports as well as the forecast of road freight flows [page 2, top of page]. He further discloses:

- The *estimation of values*, such as the value of time and the value of delays, that shipping companies connect with attributes of road freight transportation.
- The *forecast of aggregated road freight flows* between origin and destination nodes in a transport network.
- The *modelling [sic] of transport choices* within a transport network [Id.].

He further discloses qualitative measures such as road width or a *general quality index* in modeling road freight flows and transport choice [see at least page 21, bottom of page].

Examiner interprets *estimation of values*, *forecast of aggregated road freight flows*, and *modelling [sic] of transport choices* as indicative of Applicant's **sorting** and **comparing forecast data** and **publishing shipper assessment**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the instant invention to modify **Nafeh's** disclosure to include *general quality index* as taught by **Bergkvist** because qualitative measures are used to forecast flows when evaluating infrastructure [**Bergkvist** page 21, bottom of page].

15. Regarding **claims 7, 8, 22, 23, 37, and 38**: **Nafeh, Bjerre** and **Bergkvist** teach all the items of claims 1, 16, and 31, the claims upon which they depend, respectively. The limitations:

- derivative contract data represents futures contract data (claim 7, 22, and 37), and
- derivative contract data represents option contract data (claim 8, 23, and 38)

are not further limiting because the terms **derivatives** include **futures** and **options**, i.e. futures and options are both derivatives. Since this statement does not further limit the claim, this claim is rejected for the same reasons as claims 1, 16, and 31, the claims upon which they depend, respectively.

16. Regarding **claims 9 – 11, and 24 – 26**: **Nafeh** teaches the limitations:

- a third data section configured to display unfulfilled derivative contract order data
- a third data section configured to display matched derivative contract order data.
- a fourth data section configured to display successfully matched derivative contract order data

Nafeh discloses a way of viewing orders and data applicable to them. A user is able to view the size and price of the same number of *recently executed trades* and the same number of outstanding bids and offers. He also is able to view records of all recently executed trades (within the last hour) as well as a listing of the size and price of the best outstanding bid and offer [0533 and 0534]. Examiner interprets this information regarding trades is equivalent to Applicant's **derivative contract order data** as specified in the claims' limitations.

17. Claims 2, 17, and 32 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of **Bjerre** in further view of **Bergkvist** in further view of **Metcalfe et al** (US Pub. No. 2002/0138290).

18. Regarding **claims 2, 17, and 32**, neither **Nafeh, Bjerre** nor **Bergkvist** explicitly discloses:

- code for receiving information restriction requirements from at least a participant, said information restriction requirements limiting a first specified information set to a first specified recipient set, said information restriction requirements limiting a second specified information set to a second specified recipient set, said first specified information set and said second specified information set pertaining to said participant. said first specified information set and said second specified information set being stored in said database, said participant representing at least one of a shipping party, a carrying party, a forwarding party, and a market making party;
- code for providing said first specified information set to at least a recipient of said first specified recipient set based on said information restriction requirements, said first specified information set including at least one of shipment data and shipment forecast data;
- code for providing said second specified information set to at least a recipient of said second specified recipient set based on said information requirements; and
- code preventing a party not in said first specified recipient set from viewing said first specified information set.

However, **Metcalfe** discloses a system and methods for tracking, sharing and updating of information relating to supply chain purchasing transactions [0007]. She further discloses helping control access to purchase orders and delivery orders by using filters [0050]. Such filters may control access to specific data (e.g. purchase and delivery order) and direct users to specific data by exploiting the user defined attributes created in organizing and defining purchase and delivery orders [Id.]. **Metcalfe** discloses restricting a supplier's access to only

those purchase orders that are meant for that supplier by using such filters [Id.]. Examiner interprets *supplier* as analogous to Applicant's **shipper**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** disclosure to include *controlling access to specific data to a supplier's own purchase orders* as taught by **Metcalfe** because such a system is desirable to control the accessibility of the information based on multiple factors defining users. This includes, for example, preventing a freight forwarder to have access to edit certain purchasing transaction information in advance of another freight forwarder receiving the requested goods [**Metcalfe** 0005].

19. Claims 3 – 6, 18 – 21, and 33 – 36 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of **Bjerre** in further view of **Bergkvist** in further view of **Scheer** (US Pub. No. US 2002/0138358).

20. Regarding **claims 3, 18 and 33**, neither **Nafeh**, **Bjerre** nor **Bergkvist** explicitly discloses:

- said second data section further includes rating data associated with said qualitative and quantitative forecast data.

However, **Scheer** discloses a method for selecting a fulfillment plan to move an item along a supply chain [Abstract]. He further discloses *supply chain management system* which includes a database of forecast data, the forecast data including consumption rates based on historical data [0024 and 0025]. Examiner interprets *consumption rates* as indicative of Applicant's **qualitative and quantitative rating data** associated with said **forecast data**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** disclosure to include *supply chain management system* as taught by **Scheer** because it allows individuals involved in the freight

industry to efficiently operate an entire supply chain on a "just in time" basis without requiring those companies to keep excessive levels of product in storage [Scheer 0023].

21. Regarding **claim 4, 5, 19, 20, 34, and 35**: **Nafeh, Bjerre, Bergkvist and Scheer** teach all the limitations of claims 3, 18, and 33, the claims upon which they depend respectively. In addition, **Nafeh** teaches:

- qualitative assessment represents an aggregated value that takes into account qualitative assessments from different shippers (claims 4, 19, and 34).
- qualitative assessment is associated with a shipper that furnishes said forecast associated with said each rating, and includes an identity of said shipper that furnishes said forecast associated with said each rating (claims 5, 20, and 35).

Nafeh discloses a description of the types of contracts and how them in hedging [starting at 0052]. Here he points out an *aggregate value of the contract bundle* [0068]. Examiner interprets *aggregate value of the contract bundle* as indicative of Applicant's **aggregated value** attained from the **qualitative assessment** from different shippers. Examiner notes that assessments from different shippers is a statement of intended use as discussed above. Examiner notes that a qualitative assessment representing an aggregate of values (from different shippers) inherently includes the qualitative assessment of one value (i.e. associated with one shipper).

22. Regarding **claims 6, 21, and 36**: **Scheer** teaches:

- said quality assessment includes at least four of a set of criteria that includes demand, manufacturing readiness, manufacturing location, capacity, product, lane, and lane stability.

Scheer discloses as discussed above [0024 and 0025]. He further discloses a supply chain management system and method which would allow companies to operate an entire

supply chain on a "just in time" basis without requiring those companies to keep an excessive level of product safety stock on hand [0023]. Examiner interprets *allowing companies to operate an entire supply chain* as representative of Applicant's **quality assessment**. Examiner interprets *operating a supply chain on a "just in time" basis* as representative of Applicant's **manufacturing readiness**.

Scheer's supply chain management system includes a database of forecast data which may also include deterministic **demand** data [0024 - 0026]

Examiner interprets *consumption rates* [0025] as representing Applicant's **capacity**. **Scheer** also considers excess inventory in regards to stocking levels for a particular **location**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** disclosure to include *supply chain management system and method* as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to the supply and demand in the freight and transport industries.

23. Claims 12 – 15, and 27 – 30 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of **Bjerre** in further view of **Bergkvist** in further view of **Haigh** ("Cointegration, unbiased expectations, and forecasting in the BIFFEX freight futures market", The Journal of Futures Markets. Hoboken: Jul 2000. Vol. 20, Iss. 6; pg. 545), herein referred to as **Haigh2**.

24. Regarding **claims 12, 13, 27 and 28**: neither **Nafeh**, **Bjerre** nor **Bergkvist** explicitly discloses the limitations:

- a displayed data item in said derivative contract data represents a plurality of capacity offers from at least a subset of said shippers (claims 12 and 27)

- each displayed data item in said derivative contract data is a bundle of data associated with a capacity offers from a subset of said shippers, said each displayed data item being associated with a single transportation mode, at least a first displayed data items in said derivative contract data is associated with a first transportation mode, at least a second displayed data item in said derivative contract data is associated with a second transportation mode, said second transportation mode being different from said first transportation mode (claims 13 and 28).

However, **Haigh2** discloses that the freight futures contract is designed for a service rather than representing an index or a product [page 1, last paragraph]. He further discloses Baltic International Freight Futures Exchange (BIFFEX) freight futures contract which has focused on issues relating to efficiency and forecasting *future spot freight rates* [page 2, 2nd paragraph]. He further discloses freight futures contracts as an index for *size, gear, fuel efficiency, cargo, destination, dates* and so forth [page 8, 1st paragraph]. Examiner notes that these parameters related to *freight futures* are inclusive of Applicant's data associated with **capacity** (i.e. size, cargo).

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** disclosure to include *capacity data* as taught by **Haigh2** because an index for freight futures (such as the BFI index) will reflect a regularly updated freight market [**Haigh2** page 8, 1st paragraph].

25. Regarding **claims 14 and 29**: **Nafeh** discloses the limitations:

- offers are bundled into a derivate contract represented by said displayed data item in accordance to a geographic bundling criterion

Nafeh notes *geographic diversification* [0006] and applies his invention to traders that are *geographically dispersed* [0021]. Examiner interprets this application as Applicant's **geographic bundling criterion**.

26. Regarding **claims 15 and 30**: **Nafeh** discloses the limitations:

- offers are bundled into a derivative contract represented by said displayed data item in accordance to a time frame bundling criterion.

Nafeh discloses a computer-network based system which enables transactions relating to bundles of futures contracts which correspond to possible future outcomes of a phenomenon at a **time of maturity** of the contract [paragraph 0037]. Examiner interprets *time of maturity* as Applicant's **time frame bundling criterion**.

Conclusion

The prior art of record and not relied upon is considered pertinent to Applicant's disclosure:

- **Matsuzaki et al**: "Demand forecast device, method, and program product", (US Pub. 2003/0105661).
- **Lauring et al**: "Method and system for increasing accuracy in shipping and inventory forecasting", (US Pub. 2004/0148217).
- **Dietrich et al**: "Method for proactive planning", (US Patent No. 6,032,121).
- **Balzola**: "Balancing Container Inventories for Ocean Carriers", Massachusetts Institute of Technology Libraries, May 28, 1999.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571)270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Baird/
Examiner, Art Unit 3695

/Narayanswamy Subramanian/
Primary Examiner, Art Unit 3695